

REMARKS

This application has been reviewed in light of the Office Action dated February 24, 2005. Claims 1-16 are pending in the application. By the present amendment, claims 1-16 have been cancelled and new claims 17-32 have been added in a manner which is believed to overcome the rejections in the Office Action. Please note that no new matter has been added to the claims. All new claims are fully supported by the specification and figures.

In the Office Action, claims 1-16 were rejected under 35 U.S.C. §102(b) in view of Shillington (U.S. Patent No. 5,862,530). It is respectfully submitted that the claims, as presently added, are clearly patentably distinguishable over the Shillington patent.

Shillington discloses eyewear with a removable shield with a hinged, 3-layer overlay attachment mechanism. The frame 20 has movable hinges 60 that fold providing a clamp around the lens 75 when attached. The present invention does not require a folding hinge as a securing means (Claim 31). The Shillington device, additionally, does not provide for a snap-fit engagement with the detents 40 on the frame (Independent Claims 17 and 28). The detents 40 of Shillington are support posts for the lens 45. Moreover, the engagement of the detents 40 with holes 40a cannot be considered a snap fit as the temple hinges 60 would not be necessary to secure the lens 45. Shillington provides a distinct and different engagement system than does the present invention.

Regarding new claim, Claim 28, Shillington is silent as to any sealing fit as well as a snap-fit engagement. Respectfully, the distinct securing mechanism of the Shillington device is not capable of performing the steps recited in the method claims. Shillington does not disclose a method of forming a seal around the engagement structures to prevent the passage of fluids or particles. Additionally, Shillington does not disclose a snap-fit, as evidenced by the necessity of the folding hinges 60 to clamp the lens 45 to the frame 20.

Applicant respectfully submits that the newly added claims are patentably distinguishable over the Examiner's rejections in the Shillington Patent.

Claims 1-4 and 6-16 stand presently rejected under 35 U.S.C. §102(b) in view of Gazzara (U.S. Patent No. 6,481,845). Applicant respectfully submits that newly added claims 17-32 are

patentably distinct from Gazzara. Gazzara, in Figures 1-11, discloses a lens 12 having projections 18 that are made of compressible material positioned to change shape and absorb fluid, such as sweat, from the wearer. Gazzara does not disclose a guard extending inwardly from a flexible frame. The Gazzara device discloses a frame 14 having holes for receiving the projections 18. The projections 18 abut the forehead of the wearer aid in the engagement of the lens 12 and the frame 14. The apertures 32 in the frame create substantial opportunities for the passing of contaminants even with the lens 12 in place. Additionally, the absorbent material of the projections (visor) can also absorb dangerous fluids that may splash the wearer from above his or her line of sight. Additionally, removal of the lens 12 from the frame 14 while wearing the device is difficult as the lens 12 protrudes through the frame 14 and abuts the wearer's forehead.

The projections of the present invention are separate and distinct from the guard mechanism of the present invention. Gazzara does not disclose a guard extending inwardly from the frame, as disclosed in Claims 17-27 of the present invention. The projections 18 of Gazzara provide an integral function in the engagement of the lens 12 and frame 14. The Gazzara device utilizes the projections 18 of the lens 12 to engage the frame 14 as well as to shield the wearer from splashes above the wearers line of sight. The present invention does not disclose projections from a lens that function as an abutment to the forehead and an engagement structure simultaneously. On the contrary, the present invention discloses projections on the frame to engage the lens. Therefore the present invention is patentably distinguishable from Gazzara.

In view of the cancelled claims, newly added claims and foregoing remarks, it is respectfully submitted that all claims presently pending, namely claims 17-32 are believed to be in condition for allowance and patentably distinguishable over the prior art of record. An early Notice of Allowance is earnestly solicited.

In view of the foregoing amendments and remarks, it is respectfully submitted that claims 17-32 presently pending in the application are believed to be in condition for allowance and patentably distinguish over the art of record. An early notice thereof is earnestly solicited.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicants' undersigned attorney.

Please charge any deficiency as well as any other fees that may become due at any time during the pendency of this application, or credit any over payment of such fees to deposit account no. 50-0369. Also, in the event that any extensions of time for responding are required for the pending application, please treat this paper as a petition to extend the time as required and charge deposit account no. 50-0369 therefor.

Respectfully submitted,

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